

# Exhibit 65

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IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA  
CIVIL ACTION NO. 1:14-CV-00954-LCB-JLW

STUDENTS FOR FAIR  
ADMISSIONS, INC.,

Plaintiffs,

vs.

UNIVERSITY OF NORTH  
CAROLINA, et al.,

Defendants.

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AMENDED DEPOSITION  
OF  
MICHAEL DAVIS

THIS DEPOSITION CONTAINS HIGHLY CONFIDENTIAL AND  
PROPRIETARY INFORMATION AND IS SUBJECT TO A PROTECTIVE  
ORDER RESTRICTING PUBLIC DISCLOSURE OF ITS CONTENTS

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TAKEN AT THE OFFICES OF:  
UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL  
222 East Cameron Avenue  
110 Bynum Hall  
Chapel Hill, NC 27514

06-15-17  
8:56 A.M.

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Michael B. Lawrence  
Court Reporter

Civil Court Reporting, LLC  
P.O. Box 1146  
Clemmons, NC 27012  
(336) 406-7684

1 purchase data from ACT and College Board?

2 A. Yes.

3 Q. And once University purchase -- excuse  
4 me, once UNC purchases that, it uses it for more  
5 than just one thing in your experience?

6 MS. COMBS: Object to form.

7 A. The names that we purchase can only be  
8 used for recruitment to that particular  
9 university. So, we are bound to only use them to  
10 communicate with students about Carolina or  
11 general college access, that is also allowed. So  
12 they are within our general recruitment plan,  
13 which has different components to it.

14 Q. (Mr. Weir) When you say bound, that is  
15 the contract that UNC signs with College Board and  
16 ACT?

17 A. Correct.

18 Q. And so, when UN -- when the Admissions  
19 office purchases that data, it's using it for  
20 recruitment generally?

21 A. Yes, correct.

22 Q. How does UNC decide what types of data  
23 to purchase from College Board and ACT?

24 A. Since I have been here, it has been a  
25 group discussion between myself, Steve, and I have

1       involved Damon Toone and Jared Rosenberg.

2           Q.     Add what criteria goes into those  
3     conversations?   What do you talk about in deciding  
4     what to purchase?

5           A.     Generally, we are looking for talented  
6     students that, based on the information we have  
7     available at that time, may indicate that they  
8     could be admissible and potentially interested in  
9     Carolina.

10          Q.    When you say admissible, what do you  
11   mean?

12          A.    Admissible from the standpoint of, at  
13   that stage, the only real information we have  
14   about the students is their test score and their  
15   self-reported GPA.

16          Q.    That's the only data you are able to get  
17   from College Board and the ACT?

18          A.    It's not the only data that we are able  
19   to get, but it's the only data that, to me,  
20   signifies how admissible a student may later be.

21          Q.    There is no additional data that you can  
22   get from College Board and ACT that you believe  
23   would go into whether or not a student was  
24   admissible?

25          A.    Correct.

1                   Q.     Does UNC purchase data from students  
2                    that it believes would not be admissible?

3                   A.     No.

4                   Q.     And why not?

5                   A.     We do not want to actively market to and  
6                   recruit students that we do not believe may be  
7                   potentially admissible and a good fit for  
8                   Carolina.

9                   Q.     So how do you go about setting the  
10                  cutoffs since the only information you have is GPA  
11                  and SAT or ACT? So how do you go about setting  
12                  the cutoff for what is and what is not admissible?

13                  A.     So it's not a cutoff for what is  
14                  admissible. It is a cutoff in terms of who we are  
15                  going to actively market to. I will also mention  
16                  that any student, whether they come to us through  
17                  search or not, if they express interest in the  
18                  University, is also included in our general  
19                  recruitment activities.

20                  Q.     Those would be students that actively  
21                  say, hey, I am interested in UNC through whatever  
22                  avenue UNC has set up for that?

23                  A.     Correct.

24                  Q.     Okay.

25                  A.     Correct.

1 can go to the next page -- I believe it's the next  
2 page, UNC0186729 on the bottom. The second -- I  
3 guess, the third row down, "Work with Associate  
4 Directors of Diversity and Recruitment to create  
5 compelling content for both prospective and  
6 admitted students." Under "Audience" it states,  
7 "Students likely to be admitted who will  
8 contribute to diversity." Do you know what's  
9 meant there, what that means?

10 A. I do not.

11 Q. Does the admissions office speak in  
12 shorthand of students likely to be admitted?

13 MS. COMBS: Object to form.

14 A. I don't think I understand the question.

15 Q. (Mr. Weir) Sure. Is there any sort of  
16 criteria that would put students in a box of one  
17 that's likely to be admitted?

18 A. No.

19 Q. So earlier we talked about search and  
20 how you choose which bands to purchase and I  
21 believe the word you used was, "admissible"?

22 MS. COMBS: Object.

23 Q. (Mr. Weir) You purchase bands that are  
24 admissible. Is that correct?

25 A. Potentially admissible.

1 Q. Potentially admissible. And the  
2 criteria you use is -- is what? Based on what you  
3 can purchase from the College Board? You purchase  
4 that at which you think puts the applicant in the  
5 "admissible" category?

6 MS. COMBS: Object to form.

7 A. Can you restate that question?

8 Q. (Mr. Weir) Right. I just want to -- I  
9 just want to make sure I understand your prior  
10 testimony. What did you mean by admissible when  
11 we discussed it last time?

12           A.     When we were previously discussing it, I  
13       believe that I said when we purchase names, we  
14       want to purchase them with an eye towards doing  
15       our due diligence, that these were students who  
16       would be potentially admissible to the University.  
17       So not purchasing names that we know for a fact  
18       would not be admissible.

19 Q. So you wouldn't -- UNC wouldn't purchase  
20 lists of students it knows for a fact are not  
21 admissible?

22 A. Our goal would be to avoid that.

23 (EXHIBIT NUMBER 11 WAS MARKED)

24 Q. You're being handed what's been marked  
25 as Exhibit 11. Familiarize yourself with this

1                   A.     Thank you.

2                   Q.     If you will review this document.

3                   (Witness examined document)

4                   A.     Okay.

5                   Q.     Are you familiar with this document?

6                   A.     Yes.

7                   Q.     Is this an email that you drafted and  
8                   sent to people in the office?

9                   A.     It is, yes.

10                  Q.     And remind me again what Carolina and  
11                  Beyond is.

12                  A.     Carolina and Beyond was a recruitment  
13                  event designed to generate applications and it was  
14                  a replacement for Academic Days.

15                  Q.     Is this a -- an email to the office  
16                  discussing that Carolina and Beyond event and who  
17                  to invite to it?

18                  A.     It was an email to the associate group.

19                  Q.     Is the associate group -- is that --  
20                  that's the high level group that we discussed  
21                  earlier with you and Barbara Polk and Steve  
22                  Farmer?

23                  A.     Correct.

24                  Q.     And it -- but this is about setting up a  
25                  Carolina and Beyond event. Is that right?

1                   A.     Okay.

2                   Q.     Have you seen a report like this in your  
3     time at UNC?

4                   A.     I do not recall seeing a report like  
5     this, no.

6                   Q.     Any conversations with any one of the  
7     Admissions office about how UNC's undergraduate  
8     population compares to peer institutions?

9                   A.     Not that I specifically recall, no.

10                  Q.     Are you familiar with the term "critical  
11     mass"?

12                  A.     I have heard of it, but I am not really  
13     familiar with what it means.

14                  Q.     What do you think it means?

15                  A.     I honestly don't know enough to hazard a  
16     guess.

17                  Q.     Have you had discussions with anybody in  
18     the Admissions office about critical mass?

19                  A.     I have not, no.

20                  Q.     Have you had any discussions with anyone  
21     in the Admissions office about what the ultimate -  
22     -- what the perfect student body would look like?

23                  A.     No, I have not.

24                  Q.     Have you been instructed by anyone in  
25     the admissions office to attain a certain goal

1       with regard to the composition of the  
2       undergraduate student body?

3           A.     No.

4                   MS. COMBS: Object to form.

5           Q.     (Mr. Weir) That was a "no"?

6           A.     Correct.

7           Q.     What do you see as the ultimate goal of  
8       your -- you and your staff?

9                   MS. COMBS: Object to form.

10          A.    I don't think I understand the question.

11          Q.    (Mr. Weir) Sure. What do you see as  
12       the -- your staff's ultimate goal, or what is your  
13       goal from year-to-year in recruiting?

14                   MS. COMBS: Object to form.

15          A.    I see recruitment as existing to help  
16       meet the enrollment goals of the University.

17          Q.    (Mr. Weir) And what are the enrollment  
18       goals of the University?

19          A.    Whatever is provided to us through  
20       Steve.

21          Q.    Has -- are there -- what are the  
22       enrollment goals with regard to underrepresented  
23       minority students?

24                   MS. COMBS: Object to form.

25          A.    We do not have any specific enrollment